port, is by the better view not a final adjudication but subject to subsequent revision. *Olney* v. *Watts*, 43 Oh. St. 499. See 26 HARV. L. REV. 441. *Contra*, *Sampson* v. *Sampson*, 16 R. I. 456, 16 Atl. 711. An award of alimony in gross, on the other hand, changes the duty of continuous support into an obligation to pay immediately a fixed sum of money, and would seem to be a final settlement of the rights of the parties. *Plastee* v. *Plastee*, 47 Ill. 290; *Petersine* v. *Thomas*, 28 Oh. St. 596. Statutes allowing the modification of alimony decrees are, however, sometimes interpreted as applying to awards in gross. *Buckminster* v. *Buckminster*, 38 Vt. 248; *Hopkins* v. *Hopkins*, 40 Wis. 462. Yet it seems clear that when the decree has been carried out there is no longer anything to modify, and since it may generally be enforced by execution without the further aid of equity, the fact that it is still unperformed should be immaterial. Therefore such statutes should be held to have no application to award in gross. *Guess* v. *Smith*, 100 Miss. 457, 56 So. 166. *Cf. Krauss* v. *Krauss*, 127 N. Y. App. Div. 740, 111 N. Y. Supp. 788. Since the award in the principal case was virtually one in gross, it would seem that the statute gave the trial court no discretion which it could abuse. See S. D. CIV. CODE, § 92.

EQUITY — JURISDICTION — ACTION BY MUNICIPALITY AGAINST TAX COLLECTOR FOR TAXES COLLECTED. — The plaintiff township filed a bill in equity praying that the defendant, a tax collector, be ordered to account for taxes collected and to pay over money still due. *Held*, that equity has no jurisdiction. *Franklin* v. *Crane*, 85 Atl. 408 (N. J.).

Agents to collect are generally held to be in a fiduciary relation. *Stoll* v. *King*, 8 How. Pr. (N. Y.) 298; *In re Gent*, 40 Ch. D. 190. A tax collector would clearly seem to be a fiduciary. *Hill* v. *Fleming*, 128 Ky. 201, 107 S. W. 764. He is treated as a trustee in that if he uses the money he is guilty of embezzlement. *Commonwealth* v. *Fischer*, 113 Ky. 491, 68 S. W. 855. Moreover, he is not allowed a plea of set-off. *City of Waterbury* v. *Lawlor*, 51 Conn. 171. And, if the fund is destroyed in spite of due care, he should be absolved from liability. *Ross* v. *Hatch*, 5 Ia. 149. The jurisdictions holding a tax collector absolutely liable for money collected proceed on grounds of public policy. *United States* v. *Presscott*, 3 How. (U. S.) 578. They do not consider such an officer to be a mere debtor. *United States* v. *Thomas*, 15 Wall. (U. S.) 337. The decision in the principal case may be merely a matter of procedure since the township might have sued in *indebitatus assumpsit*. *Allen* v. *Impett*, 8 Taunt. 263. But see *Bartlett* v. *Dimond*, 14 M. & W. 49, 56. But it seems anomalous for equity to refuse to exercise its exclusive jurisdiction, because the law also gives a remedy.

EVIDENCE — DOCUMENTS — RECITALS IN ANCIENT DEEDS. — The plaintiff claimed land under a conveyance from an assignee in bankruptcy. The plaintiff offered as the principal evidence of the transfer of title to the assignee a recital of this in the assignee's deed, which was over thirty years old but under which there had been no possession of the land in question. *Held*, that the recitals are admissible in evidence. *Lacey* v. *Southern Mineral Land Co.*, 60 So. 283 (Ala.). See NOTES, p. 544.

EVIDENCE — RES GESTÆ — VIOLATION OF RULES OF RAILWAY COMPANY AS EVIDENCE OF NEGLIGENCE. — In an action against a street railway company for the death of the plaintiff's intestate, who was killed while getting on to a moving car, evidence of the rules of the company regulating the conduct of motormen was excluded. *Held*, that the exclusion is not error. *Hoffman* v. *Cedar Rapids & M. C. Ry. Co.*, 139 N. W. 165 (Ia.).

For a discussion of the principles involved, see 17 HARV. L. REV. 421.